

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

|                              |   |                            |
|------------------------------|---|----------------------------|
| LORENZO FOSSELMAN,           | ) | 1:05-CV-00119 AWI SMS HC   |
|                              | ) |                            |
| Petitioner,                  | ) | ORDER DENYING PETITIONER'S |
|                              | ) | MOTION FOR RECONSIDERATION |
|                              | ) |                            |
| v.                           | ) | [Doc. #59]                 |
|                              | ) |                            |
|                              | ) |                            |
| RICHARD D. KIRKLAND, Warden, | ) |                            |
|                              | ) |                            |
| Respondent.                  | ) |                            |

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On June 12, 2008, the undersigned issued an [Order](#) adopting the Magistrate Judge's Findings and Recommendation, denying the petition for writ of habeas corpus, directing the Clerk of Court to enter judgment, and declining a certificate of appealability. The Clerk of Court entered judgment on the same date.

On June 27, 2008, Petitioner filed a [motion for reconsideration](#) pursuant to Federal Rules of Civil Procedure § 60(b).

Pursuant to Rule 60(b) of the Federal Rules of Civil Procedure,  
the court may relieve a party or a party's legal representative from a final judgment,

1 order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or  
2 excusable neglect; (2) newly discovered evidence which by due diligence could not  
3 have been discovered in time to move for a new trial under Rule 59(b); (3) fraud  
(whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other  
4 misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been  
5 satisfied, released, or discharged, or a prior judgment upon which it is based has been  
reversed or otherwise vacated, or it is no longer equitable that the judgment should  
have prospective application; or (6) any other reason justifying relief from the  
operation of the judgment.

6 Petitioner fails to meet this standard. Petitioner does not set forth any arguments or evidence  
7 that have not already been considered by this Court. As stated in the Court's June 12, 2008, Order,  
8 Petitioner has failed to demonstrate any prejudice resulting from the line-up procedure. Also, the trial  
9 court's failure to hold a full Marsden hearing based upon its receipt of Petitioner's letter containing  
10 updated information was not contrary to clearly established federal law. Petitioner's arguments  
11 present no basis for relief.

12 Accordingly, Petitioner's Motion for Reconsideration is DENIED.

13  
14 IT IS SO ORDERED.

15 **Dated: July 7, 2008**

**/s/ Anthony W. Ishii**  
CHIEF UNITED STATES DISTRICT JUDGE